

12 MAXIMILIAN KLEIN, et al.  
13 Plaintiffs,  
14 v.  
15 FACEBOOK, INC.,  
16 Defendant.

Case No. 20-CV-08570-LHK

**ORDER APPOINTING INTERIM  
CLASS COUNSEL AND PLAINTIFFS'  
EXECUTIVE COMMITTEES**

Re: Dkt. Nos. 55, 56, 57, 58, 59

18 Before the Court are two motions for appointment as Interim Class Counsel for the  
19 consumer class, ECF Nos. 55, 59, and two motions supporting one of the motions. ECF Nos. 56,  
20 57.<sup>1</sup> The Court received three response briefs with respect to the consumer class. ECF Nos. 60, 61,  
21 62. Before the Court is one motion for appointment as interim class counsel for the advertiser  
22 class. ECF No. 58. The Court received two response briefs with respect to the advertiser class.  
23 ECF Nos. 60, 63.

24 Having considered the parties' submissions and arguments at the March 18, 2021 hearing

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26 <sup>1</sup> ECF Nos. 57, 58, and 59 contain a notice of motion paginated separately from the  
27 memorandum of points and authorities in support of the motion. Civil Local Rule 7-2(b) provides  
28 that the notice of motion and points and authorities must be contained in one document with the  
same pagination.

1 on the instant motions and the factors enumerated in Rule 23(g)(1)(A), the Court hereby appoints  
2 Stephen A. Swedlow of Quinn Emanuel Urquhart & Sullivan, LLP and Shana A. Scarlett of  
3 Hagens Berman Sobol Shapiro LLP as Interim Class Counsel for the consumer class; and Yavar  
4 Bathaee of Bathaee Dunne LLP and Kristen M. Anderson of Scott + Scott LLP as Interim Class  
5 Counsel for the advertiser class.

6 The Court further recognizes that this antitrust litigation will require significant resources  
7 from Plaintiffs' counsel, who must advance the cost of litigation, including attorneys' and experts'  
8 fees. Thus, the Court appoints the following attorneys to serve on Plaintiffs' Executive Committee  
9 for the consumer class: Warren Postman of Keller Lenkner LLC and Brian D. Clark of Lockridge  
10 Grindal Nauen P.L.L.P. The Court appoints the following attorneys to serve on Plaintiffs'  
11 Executive Committee for the advertiser class: Tina Wolfson of Ahdoot & Wolfson, PC and Keith  
12 J. Verrier of Levin Sedran & Berman LLP.

13 In light of the number of attorneys and law firms appointed, and in order to ensure  
14 efficiency, the Court adopts the following protocols. Other than the Interim Class Counsel and  
15 Plaintiffs' Executive Committees, no other law firms shall work on the instant case without prior  
16 approval of the Court. Motions for approval of additional Plaintiffs' counsel shall identify the  
17 additional Plaintiffs' counsel and their background, the specific proposed tasks, and why Interim  
18 Class Counsel and Plaintiffs' Executive Committees cannot perform these tasks. Interim Class  
19 Counsel must obtain Court approval in advance in order to seek reimbursement of the fees for  
20 specific work performed by additional Plaintiffs' counsel.

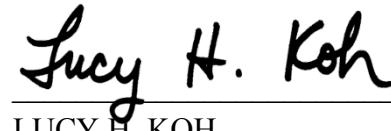
21 Further, Interim Class Counsel and the Plaintiffs' Executive Committees shall take the  
22 following steps to ensure efficiency in representing the putative classes in the instant case. First, as  
23 Interim Class Counsel, Stephen Swedlow and/or Shana Scarlett shall review all billing records for  
24 all billers every month and strike duplicative or inefficient billing for the consumer class. Yavar  
25 Bathaee and/or Kristen M. Anderson shall do the same for the advertiser class. Second, all billing  
26 shall be contemporaneous, meaning that billing for each task shall be recorded within seven days  
27 of the task. Third, all billing shall be recorded by task, rather than by block billing. Fourth, only  
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1 work that has been assigned shall be eligible for compensation. Fifth, all billing by task should be  
2 billed in tenth-of-an hour increments. Sixth, Interim Class Counsel and the Plaintiffs' Executive  
3 Committees shall impose and enforce limits on the number of lawyers assigned to each task. For  
4 expenses, only coach airfare will be reimbursed.

5 Finally, Interim Class Counsel, the Plaintiffs' Executive Committees, and any additional  
6 Plaintiffs' counsel approved by the Court shall not bill time related to fee issues or time spent  
7 preparing or reviewing time and expenses. In other words, "fees on fees" are not billable. "Fees  
8 are not awarded for fee litigation in common fund cases because, rather than creating or preserving  
9 the common fund, the fee litigation actually depletes it." *Kinney v. Int'l Bhd. of Elec. Workers*, 939  
10 F.2d 690, 694 n.5 (9th Cir. 1991); *accord* 5 Newberg on Class Actions § 15:93 (5th ed. Dec. 2020  
11 update) (collecting cases).

12 **IT IS SO ORDERED.**

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14 Dated: March 18, 2021

  
Lucy H. Koh

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16 LUCY H. KOH  
17 United States District Judge

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